

AMENDED IN ASSEMBLY MAY 29, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1109

Introduced by Assembly Member Maddox

February 21, 2003

~~An act to amend Section 50 of the Civil Code, relating to force. An act to amend Section 197 of the Penal Code, relating to homicide.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1109, as amended, Maddox. ~~Force—Justifiable homicide: defense of a fetus.~~

Existing law provides that homicide is justifiable in specified circumstances, including when committed in defense of habitation, property, or person, against one who manifestly intends or endeavors, by violence or surprise, to commit a felony, or against one who manifestly intends and endeavors, in a violent, riotous or tumultuous manner, to enter the habitation of another for the purpose of offering violence to any person therein.

This bill would add a homicide committed in defense of a fetus in one of the situations described above to the circumstances in which a homicide is justifiable.

~~Existing law provides that necessary force may be used to protect from wrongful injury the person or property of oneself, or of a wife, husband, child, parent, relative, or member of one's family, or of a ward, servant, master, or guest, subject to the limitations imposed by criminal law, as specified.~~

~~This bill would provide that this force may be used to protect a fetus from wrongful injury.~~

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 50 of the Civil Code is amended to read:~~
2 SECTION 1. Section 197 of the Penal Code is amended to
3 read:
4 197. Homicide is also justifiable when committed by any
5 person in any of the following cases:
6 1. When resisting any attempt to murder any person, or to
7 commit a felony, or to do some great bodily injury upon any
8 person; or,
9 2. When committed in defense of habitation, property, ~~or~~
10 person, *or a fetus*, against one who manifestly intends or
11 endeavors, by violence or surprise, to commit a felony, or against
12 one who manifestly intends and endeavors, in a violent, riotous or
13 tumultuous manner, to enter the habitation of another for the
14 purpose of offering violence to any person therein; or,
15 3. When committed in the lawful defense of ~~such~~ *the* person,
16 or of a wife or husband, parent, child, master, mistress, or servant
17 of ~~such~~ *the* person, when there is reasonable ground to apprehend
18 a design to commit a felony or to do some great bodily injury, and
19 imminent danger of ~~such~~ *the* design being accomplished; but ~~such~~
20 *the* person, or the person in whose behalf the defense was made,
21 if he *or she* was the assailant or engaged in mutual combat, must
22 really and in good faith have endeavored to decline any further
23 struggle before the homicide was committed; or,
24 4. When necessarily committed in attempting, by lawful ways
25 and means, to apprehend any person for any felony committed, or
26 in lawfully suppressing any riot, or in lawfully keeping and
27 preserving the peace.
28 ~~50. Any necessary force may be used to protect from wrongful~~
29 ~~injury the person or property of oneself, or of a wife, husband,~~
30 ~~fetus, child, parent, or other relative, or member of one's family,~~
31 ~~or of a ward, servant, master, or guest.~~

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